

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES

v.

EDWARD PETERS

)
) CR 16-168
) CV 17-1400
)

MEMORANDUM ORDER

By Order dated August 16, 2018 (“August 16 Order”), this Court denied Defendant’s Motion pursuant to 28 U.S.C. § 2255. In so doing, the Court determined that no certificate of appealability should issue. Presently, Defendant has filed a Motion for a Certificate of Appealability. Therein, he asserts that just after filing his Motion to Vacate, he was in transit and without access to his legal work for over a month. Therefore, he states, he was unable to bolster his argument regarding counsel’s shortcomings.

Defendant’s Motion to Vacate was filed on October 30, 2017. On March 16, 2018, Defendant moved for, and received, leave to reply to the Government’s response to his Motion. He filed a thorough, eight-page reply, containing legal citations, on April 25, 2018. Defendant does not specify what, if any, information he was unable to submit to the Court’s attention at that time. It is further unclear how his inability to access his legal work while he was in transit deprived him of the ability to properly support his claims.

A certificate of appealability “certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(B)(2). To the extent that Defendant’s Motion should be deemed one for reconsideration, such motions for reconsideration are granted sparingly. In addition, they “must rely on one of

three grounds: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct clear error of law or prevent manifest injustice." Bridges v. Colvin, 136 F. Supp. 3d 620, 629 (E.D. Pa. 2015) (quoting Lazaridis v. Wehmer, 591 F.3d 666, 669 (3d Cir. 2010)).

Whether Defendant's Motion is considered under standards applicable to a motion for reconsideration, or instead as a novel request for a certificate of appealability, the Motion must be denied. Defendant has not stated any grounds that warrant revisiting this Court's August 16 Order.

AND NOW, this 12th day of October, 2018, IT IS SO ORDERED.

BY THE COURT:

A handwritten signature in black ink, reading "Donetta W. Ambrose". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Donetta W. Ambrose

Senior Judge, U.S. District Court